

*at-fok*  
**ORIGINAL**

2160-1

Of Counsel:

BURKE McPHEETERS BORDNER & ESTES

WILLIAM A. BORDNER 1371-0

([bbordner@bmbe-law.com](mailto:bbordner@bmbe-law.com))

JOHN REYES-BURKE 6251-0

([jburke@bmbe-law.com](mailto:jburke@bmbe-law.com))

Suite 3100 - Mauka Tower

Pacific Guardian Center

737 Bishop Street

Honolulu, Hawaii 96813

Telephone No. (808) 523-9833

Fax No. (808) 528-1656

Attorneys for Defendant

FRANKLIN K. MUKAI

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

FEB 17 2006 *ay*

at 3 o'clock and 50 min P M  
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

SPORTS SHINKO CO., LTD., a  
Japanese corporation,

Plaintiff,

vs.

QK HOTEL, LLC, a Hawai'i limited  
liability company, KG HOLDINGS  
LLC, a Hawai'i limited liability  
company, FRANKLIN K. MUKAI,

Defendants.

CIVIL NO. 04-00124 ACK/BMK  
(Consolidated Case)

DEFENDANT FRANKLIN K.  
MUKAI'S JOINDER IN KG  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT IN CV NO. *Tag*  
04-00128 ACK-BMK FILED  
JANUARY 13, 2006; CERTIFICATE  
OF SERVICE

**HEARING**

DATE: March 20, 2006 *Tag*

TIME: 9:30 A.M.

JUDGE: Hon. Alan C. Kay  
(No trial date assigned.)

---

SPORTS SHINKO (USA) CO., LTD.,  
a Delaware corporation,

Plaintiff,

vs.

PUKALANI GOLF CLUB, LLC, a  
Hawai'i limited liability company; KG  
MAUI DEVELOPMENT, LLC, a  
Hawai'i limited liability company; KG  
HOLDINGS, LLC, a Hawai'i limited  
liability company, FRANKLIN K.  
MUKAI,

Defendants.

CIVIL NO. 04-00125 ACK/BMK

---

SPORTS SHINKO (USA) CO.,  
LTD., a Delaware corporation,

Plaintiff,

vs.

KIAHUNA GOLF CLUB, LLC, a  
Hawai'i limited liability company;  
KG KAUAI DEVELOPMENT, LLC,  
a Hawai'i limited liability company;  
PUKALANI GOLF CLUB, LLC, a  
Hawai'i limited liability company;  
KG MAUI DEVELOPMENT, LLC, a  
Hawai'i limited liability company;  
MILILANI GOLF CLUB, LLC, a  
Hawai'i limited liability company;  
QK HOTEL, LLC, a Hawai'i limited  
liability company; OR HOTEL, LLC,  
a Hawai'i limited liability company,

CIVIL NO. 04-00126 ACK/BMK

and KG HOLDINGS, LLC, a Hawai`i  
limited liability company, FRANKLIN  
K. MUKAI,

Defendants.

---

SPORTS SHINKO CO., LTD., a  
Japanese corporation,

Plaintiff,

vs.

OR HOTEL, LLC, a Hawai`i limited  
liability company, KG HOLDINGS,  
LLC, a Hawai`i limited liability  
company, FRANKLIN K. MUKAI,

Defendants.

CIVIL NO. 04-00127 ACK/BMK

---

SPORTS SHINKO (USA) CO., LTD.,  
a Delaware corporation,

Plaintiff,

vs.

MILILANI GOLF CLUB, LLC, a  
Hawai`i limited liability company; KG  
HOLDINGS LLC, Hawai`i limited  
liability company, FRANKLIN K.  
MUKAI,

Defendants.

---

CIVIL NO. 04-00128 ACK/BMK

**DEFENDANT FRANKLIN K. MUKAI'S JOINDER IN KG DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT IN CV NO. 04-00128 ACK-BMK  
FILED JANUARY 13, 2006**

Defendant Franklin K. Mukai ("Mr. Mukai"), by and through his undersigned counsel and pursuant to Fed.R.Civ.P. 56 and L.R. 7.4, hereby joins in KG Defendants' Motion For Summary Judgment In CV No. 04-00128 ACK-BMK filed on January 13, 2006.

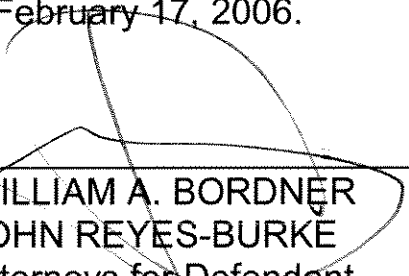
Mr. Mukai submits that Plaintiff, as the entity through which control over the purported "debtor" was established,<sup>1</sup> cannot seek to benefit from its own conduct in seeking to hold third-parties liable for its own acts. As explained in the KG Defendants' Motion and established by the KG Defendants' Concise Statement filed in support, Toshio Kinoshita and the control group of the Plaintiff (and Sports Shinko Co., Ltd. or "SS Japan") was identical to the control group of the "debtor" Sports Shinko (Mililani) Co., Ltd.. The acts of SS Japan, of Plaintiff, and of Sports Shinko (Mililani) Co., Ltd. (and of all the other Sports Shinko entities) are alleged (i.e.,

---

<sup>1</sup> As Plaintiff itself alleges in its Second Amended Complaint filed July 12, 2005, "Plaintiff is the sole shareholder of Sports Shinko (Hawaii) Co, Ltd. ("SSH"), a Hawaii corporation, which owns all of the stock of the debtor, Sports Shinko (Mililani) Co., Ltd. ("DEBTOR")." See Second Amended Complaint, ¶ 1. Moreover, "Sports Shinko Co, Ltd., a Japan Corporation ... [is] the ultimate parent corporation of both Plaintiff and [Sports Shinko (Mililani) Co., Ltd.] ... , and Plaintiff in two consolidated cases...[.]" See Second Amended Complaint, ¶ 12. As alleged in consolidated case Civil No. CV 04-00127 (and as is at least implicit in the allegations made by Plaintiff in the Second Amended Complaint, ¶ 16), Toshio Kinoshita and the other so-called "Insiders" (see Second Amended Complaint, ¶ 8) controlled SS Japan. See Second Amended Complaint in Civil No. CV 04-00127, ¶ 16 (Toshio Kinoshita and the other "Insiders" formulated a "plan" to transfer the assets of Sports Shinko (Waikiki) Corporation and Sports

judicially admitted) to be the acts of the controlling shareholder, representative director, and President of the entire Sports Shinko empire, Toshio Kinoshita. Under the doctrine of in pari delicto, the acts of Plaintiff's directors, officers and shareholders—as well as those of the directors, officers and shareholder(s) of Sports Shinko (Mililani) Co., Ltd.—are attributable to Plaintiff, which is itself responsible for all of its damages claimed herein.

DATED: Honolulu, Hawaii, February 17, 2006.



---

WILLIAM A. BORDNER  
JOHN REYES-BURKE  
Attorneys for Defendant  
FRANKLIN K. MUKAI

---

Shinko Co, Ltd. (i.e., SS Japan) outside the reach Resolution and Collection Corporation and SS Japan's other creditors).

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

SPORTS SHINKO CO., LTD., a  
Japanese corporation,

Plaintiff,

vs.

QK HOTEL, LLC, a Hawai'i limited  
liability company, KG HOLDINGS  
LLC, a Hawai'i limited liability  
company, FRANKLIN K. MUKAI,

Defendants.

CIVIL NO. 04-00124 ACK/BMK  
(Consolidated Case)

CERTIFICATE OF SERVICE

(No trial date assigned.)

---

SPORTS SHINKO (USA) CO., LTD.,  
a Delaware corporation,

Plaintiff,

vs.

PUKALANI GOLF CLUB, LLC, a  
Hawai'i limited liability company; KG  
MAUI DEVELOPMENT, LLC, a  
Hawai'i limited liability company; KG  
HOLDINGS, LLC, a Hawai'i limited  
liability company, FRANKLIN K.  
MUKAI,

Defendants.

CIVIL NO. 04-00125 ACK/BMK

---

CIVIL NO. 04-00126 ACK/BMK

SPORTS SHINKO (USA) CO.,  
LTD., a Delaware corporation,

Plaintiff,

vs.

KIAHUNA GOLF CLUB, LLC, a  
Hawai`i limited liability company;  
KG KAUAI DEVELOPMENT, LLC,  
a Hawai`i limited liability company;  
PUKALANI GOLF CLUB, LLC, a  
Hawai`i limited liability company;  
KG MAUI DEVELOPMENT, LLC, a  
Hawai`i limited liability company;  
MILILANI GOLF CLUB, LLC, a  
Hawai`i limited liability company;  
QK HOTEL, LLC, a Hawai`i limited  
liability company; OR HOTEL, LLC,  
a Hawai`i limited liability company,  
and KG HOLDINGS, LLC, a Hawai`i  
limited liability company, FRANKLIN  
K. MUKAI,

Defendants.

---

SPORTS SHINKO CO., LTD., a  
Japanese corporation,

Plaintiff,

vs.

OR HOTEL, LLC, a Hawai`i limited  
liability company, KG HOLDINGS,  
LLC, a Hawai`i limited liability  
company, FRANKLIN K. MUKAI,

Defendants.

CIVIL NO. 04-00127 ACK/BMK

SPORTS SHINKO (USA) CO., LTD.,  
a Delaware corporation,

Plaintiff,

vs.

MILILANI GOLF CLUB, LLC, a  
Hawai'i limited liability company; KG  
HOLDINGS LLC, Hawai'i limited  
liability company, FRANKLIN K.  
MUKAI,

Defendants.

CIVIL NO. 04-00128 ACK/BMK

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was duly  
served on the following parties in the manner specified below, on  
February 17, 2006, addressed as follows:

PAUL ALSTON, ESQ.  
GLENN T. MELCHINGER, ESQ.  
Alston Hunt Floyd & Ing  
1800 ASB Tower  
1001 Bishop Street  
Honolulu, HI 96813

U.S. Mail      Delivery

(   )      (   ✓   )

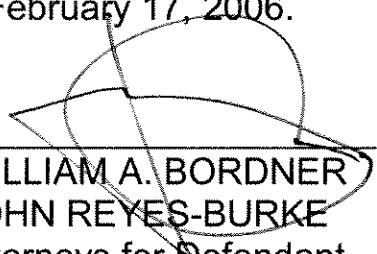
Attorneys for Plaintiff



	<u>U.S. Mail</u>	<u>Delivery</u>
WARREN PRICE, III, ESQ. ROBERT A. MARKS, ESQ. Price Okamoto Himeno & Lum 728 Ocean View Center 707 Richards Street Honolulu, HI 96813	( )	( ✓ )

Attorney for Defendants  
KIAHUNA GOLF CLUB, LLC; KG KAUAI  
DEVELOPMENT, LLC; PUKALANI GOLF  
CLUB, LLC; KG MAUI DEVELOPMENT, LLC;  
MILILANI GOLF CLUB, LLC; QK HOTEL,  
LLC; OR HOTEL, LLC; and KG HOLDINGS, LLC

DATED: Honolulu, Hawaii, February 17, 2006.



---

WILLIAM A. BORDNER  
JOHN REYES-BURKE  
Attorneys for Defendant  
FRANKLIN K. MUKAI